

AMENDED IN ASSEMBLY JUNE 12, 2006

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 490

Introduced by Senator Lowenthal

February 18, 2005

An act to add and repeal Section 59018 of the Health and Safety Code, relating to toxic substances. An act to amend Section 6516.6 of the Government Code, and to add Section 97.69 to the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 490, as amended, Lowenthal. ~~Toxic substances list: Netherlands.~~ *Local government finance.*

Existing law authorizes school entities, among others, to sell, assign, pledge, or otherwise transfer to a joint powers authority their right, title, and interest in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the school entity for collection on the secured, unsecured, or supplemental property tax rolls.

Existing law requires, for each fiscal year, that each city, county, and city and county receive a portion of the countywide vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund (VLFPTCF) established in the treasury of each county to receive amounts from a county Educational Revenue Augmentation Fund (ERAF). Existing law also requires, for each fiscal year during the fiscal adjustment period, as defined, that each city, county, and city and county receive a portion of the countywide adjustment amount, as defined, from a Sales and Use Tax

Compensation Fund (SUTCF) established in the treasury of each county to also receive amounts from a county ERAF.

This bill would, on and after January 1, 2007, prohibit an ERAF from transferring, and a joint powers authority from obtaining, delinquent and uncollected receivables from a county ERAF, as specified. This bill would also prohibit the auditor of a county from allocating to the VLFPTCF and SUTCF delinquent and uncollected property tax revenues on the secured roll that have been pledged or contractually obligated to debt service repayment, as specified. This bill would also require county auditors to proportionally increase the amount of the ad valorem property tax reduction for school entities in the county to ensure that the total amount of the countywide vehicle license fee adjustment amount and the countywide adjustment amount is not reduced, as specified.

By changing the manner in which ad valorem property tax revenues are allocated in a county, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The Governor's Reorganization Plan No. 1 of 1991, which was not fully statutorily implemented, created the Office of Environmental Health Hazard Assessment in the California Environmental Protection Agency.~~

~~The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical that is listed as being known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified.~~

~~This bill would require the office, in cooperation with the Ministry of Housing, Spatial Planning, and the Environment of the Government of Netherlands, to compile a listing of substances recognized as posing hazards to human health or the environment. The bill would~~

~~require the office, when compiling this listing, to not include any substance that is listed pursuant to Proposition 65. The bill would require the Director of Environmental Health Hazard Assessment, by March 1, 2006, to report to the Legislature regarding the actions being taken by the Government of the Netherlands to protect their citizens from substances recognized as posing hazards to human health or the environment and to post on the agency's Web site specified findings regarding those substances and the methodology used by the Government of the Netherlands to rapidly analyze chemicals in commerce.~~

~~The provisions of the bill would be repealed on January 1, 2007.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6516.6 of the Government Code is
2 amended to read:

3 6516.6. (a) Notwithstanding any other provision of law, a
4 joint powers agency established pursuant to a joint powers
5 agreement in accordance with this chapter may issue bonds
6 pursuant to Article 2 (commencing with Section 6540) or Article
7 4 (commencing with Section 6584), in order to purchase
8 obligations of local agencies or make loans to local agencies,
9 which moneys the local agencies are hereby authorized to
10 borrow, to finance the local agencies' unfunded actuarial pension
11 liability or to purchase, or to make loans to finance the purchase
12 of, delinquent assessments or taxes levied on the secured roll by
13 the local agencies, the county, or any other political subdivision
14 of the state. Notwithstanding any other provision of law,
15 including Section 53854, the local agency obligations or loans, if
16 any, shall be repaid in the time, manner and amounts, with
17 interest, security, and other terms as agreed to by the local
18 agency and the joint powers authority.

19 (b) Notwithstanding any other provision of law, a joint powers
20 authority established pursuant to a joint powers agreement in
21 accordance with this chapter may issue bonds pursuant to Article
22 2 (commencing with Section 6540) or Article 4 (commencing
23 with Section 6584), in order to purchase or acquire, by sale,
24 assignment, pledge, or other transfer, any or all right, title, and

1 interest of any local agency in and to the enforcement and
2 collection of delinquent and uncollected property taxes,
3 assessments, and other receivables that have been levied by or on
4 behalf of the local agency and placed for collection on the
5 secured, unsecured, or supplemental property tax rolls. Local
6 agencies, including, cities, counties, cities and counties, school
7 districts, redevelopment agencies, and all other special districts
8 that are authorized by law to levy property taxes on the county
9 tax rolls, are hereby authorized to sell, assign, pledge, or
10 otherwise transfer to a joint powers authority any or all of their
11 right, title, and interest in and to the enforcement and collection
12 of delinquent and uncollected property taxes, assessments, and
13 other receivables that have been levied by or on behalf of the
14 local agency for collection on the secured, unsecured, or
15 supplemental property tax rolls in accordance with the terms and
16 conditions that may be set forth in an agreement with a joint
17 powers authority.

18 (c) Notwithstanding Division 1 (commencing with Section 50)
19 of the Revenue and Taxation Code, upon any transfer authorized
20 in subdivision (b), the following shall apply:

21 (1) A local agency shall be entitled to timely payment of all
22 delinquent taxes, assessments, and other receivables collected on
23 its behalf on the secured, unsecured, and supplemental tax rolls,
24 along with all penalties, interest, costs, and other charges thereon,
25 no later than 30 calendar days after the close of the preceding
26 monthly or four-week accounting period during which the
27 delinquencies were paid by or on account of any property owner.

28 (2) Upon its receipt of the delinquent taxes, assessments, and
29 receivables that it had agreed to be transferred, a local agency
30 shall pay those amounts, along with all applicable penalties,
31 interest, costs, and other charges, to the joint powers authority in
32 accordance with the terms and conditions that may be agreed to
33 by the local agency and the joint powers authority.

34 (3) The joint powers authority shall be entitled to assert all
35 right, title, and interest of the local agency in the enforcement
36 and collection of the delinquent taxes, assessments, and
37 receivables, including without limitation, its lien priority, its right
38 to receive the proceeds of delinquent taxes, assessments, and
39 receivables, and its right to receive all penalties, interest,
40 administrative costs, and any other charges, including attorney

1 fees and costs, if otherwise authorized by law to be collected by
2 the local agency.

3 (4) (A) For any school district that participates in a joint
4 powers authority using financing authorized by this section and
5 that does not participate in the alternative method of distribution
6 of tax levies under Chapter 3 of Division 1 of Part 8 of the
7 Revenue and Taxation Code, the amount of property tax receipts
8 to be reported in a fiscal year for the district under subdivision (f)
9 of Section 75.70 of the Revenue and Taxation Code, or any other
10 similar law requiring reporting of school district property tax
11 receipts, shall be equal to 100 percent of the school district's
12 allocable share of the taxes distributed to it for the then fiscal
13 year, plus 100 percent of the school district's share of any
14 delinquent secured and supplemental property taxes assigned
15 from that year and 100 percent of its share of any delinquent
16 secured and supplemental property taxes from any prior years
17 which the school district has assigned to a joint powers authority
18 in that fiscal year, as such delinquent taxes are shown on the
19 delinquent tax roll prescribed by Section 2627 of the Revenue
20 and Taxation Code, on an abstract list if one is kept pursuant to
21 Chapter 4 (commencing with Section 4372) of Part 7 of Division
22 1 of the Revenue and Taxation Code, or other records maintained
23 by the county, plus all other delinquent taxes that the school
24 district has not assigned to a joint powers authority which are
25 collected and distributed to the school district as otherwise
26 provided by law, less any reduction amount required by
27 subparagraph (B). One hundred percent of the school district's
28 allocable share of the delinquent taxes assigned for the current
29 fiscal year, and 100 percent of the school district's allocable
30 share of the delinquent taxes assigned for all years prior thereto,
31 as shown on the delinquent roll, abstract list, or other records
32 maintained by the county, whether or not those delinquent taxes
33 are ever collected, shall be paid by the joint powers authority to
34 the county auditor and shall be distributed to the school district
35 by the county auditor in the same time and manner otherwise
36 specified for the distribution of tax revenues generally to school
37 districts pursuant to current law. Any additional amounts shall
38 not be so reported and may be provided directly to a school
39 district by a joint powers authority.

(B) When a joint powers authority finances delinquent taxes for a school district pursuant to this section, and continuing as long as adjustments are made to the delinquent taxes previously assigned to a joint powers authority, the school district's tax receipts to be reported as set forth in subparagraph (A) shall be reduced by the amount of any adjustments made to the school district's allocable share of taxes shown on the applicable delinquent tax roll, abstract list, if one is kept, or other records maintained by the county, occurring for any reason whatsoever other than redemption, which reduce the amount of the delinquent taxes assigned to the joint powers authority.

(C) A joint powers authority financing delinquent school district taxes and related penalties pursuant to this subdivision shall be solely responsible for, and shall pay directly to the county, all reasonable and identifiable administrative costs and expenses of the county which are incurred as a direct result of the compliance of the county tax collector or county auditor, or both, with any new or additional administrative procedures required for the county to comply with this subdivision. Where reasonably possible, the county shall provide a joint powers authority with an estimate of the amount of and basis for any additional administrative costs and expenses within a reasonable time after written request for an estimate.

(D) In no event shall the state be responsible or liable for a joint powers authority's failure to actually pay the amounts required by subparagraphs (A) and (B), nor shall a failure constitute a basis for a claim against the state by a school district, county, or joint powers authority.

(E) The phrase "school district," as used in this section, includes all school districts of every kind or class, including, without limitation, community college districts and county superintendents of school.

(d) The powers conferred by this section upon joint powers authorities and local agencies shall be complete, additional, and cumulative to all other powers conferred upon them by law. Except as otherwise required by this section, the agreements authorized by this section need not comply with the requirements of any other laws applicable to the same subject matter.

(e) An action to determine the validity of any bonds issued, any joint powers agreements entered into, any related

1 agreements, including, without limitation, any bond indenture or
2 any agreements relating to the sale, assignment, or pledge entered
3 into by a joint powers authority or a local agency, the priority of
4 any lien transferred in accordance with this section, and the
5 respective rights and obligations of any joint powers authority
6 and any party with whom the joint powers authority may contract
7 pursuant to this chapter, may be brought by the joint powers
8 authority pursuant to Chapter 9 (commencing with Section 860)
9 of Title 10 of Part 2 of the Code of Civil Procedure. Any appeal
10 from a judgment in the action shall be commenced within 30
11 days after entry of judgment.

12 (f) This section shall not be construed to affect the manner in
13 which an agency participates in or withdraws from the alternative
14 distribution method established by Chapter 3 (commencing with
15 Section 4701) of Part 8 of Division 1 of the Revenue and
16 Taxation Code.

17 (g) *Notwithstanding any other law, on and after January 1,*
18 *2007, a joint powers authority shall not purchase or acquire, and*
19 *an Educational Revenue Augmentation Fund shall not sell,*
20 *assign, pledge, or otherwise transfer to a joint powers authority,*
21 *the right, title, or interest of an Educational Revenue*
22 *Augmentation Fund in the enforcement and collection of*
23 *delinquent and uncollected property tax revenues, assessments,*
24 *or other receivables placed for collection on the secured,*
25 *unsecured, or supplemental rolls.*

26 SEC. 2. *Section 97.69 is added to the Revenue and Taxation*
27 *Code, to read:*

28 97.69. (a) *Notwithstanding any other law, in allocating ad*
29 *valorem property tax revenues to a Sales and Use Tax*
30 *Compensation Fund under Section 97.68 or a Vehicle License*
31 *Fee Property Tax Compensation Fund under Section 97.70, the*
32 *auditor shall not allocate to those funds the revenues from*
33 *delinquent and uncollected property taxes on the secured roll*
34 *that have been pledged or contractually obligated to debt service*
35 *repayment under Section 6516.6 of the Government Code.*

36 (b) *In implementing subdivision (a), the auditor shall*
37 *proportionally increase, using nondelinquent ad valorem*
38 *property tax revenues, the total amount of the ad valorem*
39 *property tax revenue reduction, otherwise required by Sections*
40 *97.68 and 97.70, for all school entities in the county that have*

pledged or contractually obligated to debt service repayment revenues from delinquent and uncollected property taxes on the secured roll, by an amount equal to the total amount excluded under subdivision (a) to ensure that there is no reduction in the total amount of the countywide adjustment amount, as defined in Section 97.68, or the total amount of the countywide vehicle license fee adjustment amount, as defined in Section 97.70, for any fiscal year.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. Section 59018 is added to the Health and Safety Code, to read:~~

~~59018. (a) The Office of Environmental Health Hazard Assessment shall, in cooperation with the Ministry of Housing, Spatial Planning, and the Environment of the Government of Netherlands, compile a listing of substances recognized as posing hazards to human health or the environment, based on the implementation strategy on the management of those substances by that ministry.~~

~~(b) When compiling the listing pursuant to subdivision (a), the Office of Environmental Health Hazard Assessment shall not include any substance that is listed pursuant to Section 25249.8 as a chemical otherwise known to the state to cause cancer or reproductive toxicity.~~

~~(c) On or before March 1, 2006, the Director of Environmental Health Hazard Assessment shall report to the Legislature regarding the actions being taken by the Government of the Netherlands to protect their citizens from substances recognized as posing hazards to human health or the environment. The Director of Environmental Health Hazard Assessment shall post on the Web site of the California Environmental Protection Agency any relevant findings regarding the listing of specific substances and the methodology used by the Government of the Netherlands to rapidly analyze chemicals in commerce.~~

~~(d) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted~~

1 ~~statute, that is enacted before January 1, 2007, deletes or extends~~
2 ~~that date.~~

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